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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,557	07/31/2003	Charles Lu	185.1002.01	2581
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SWERNOFSKY LAW GROUP PC P.O. BOX 390013 MOUNTAIN VIEW, CA 94039-0013				GOLDMAN, MICHAEL H
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,557	LU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael H. Goldman	4127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 July 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

1. The following is a non-final, first action on the merits. Claims 1-13 are pending.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title recites "Including Smart Coupons", however only 'coupons' are addressed in the specification and claims.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1,2, 4-7, 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being Anticipated by Kraft (20040098377) in view of Podgurny et al. (2004/0176997) and further in view of O’Ryan (20020111853).**

**As per claim 1**, Kraft discloses a system and method of real-time price comparisons searching for multi-variable information relating to prices by sellers of a selected product, where the multi-variable information includes at least two of the following: a stated price, a coupon or discount applicable to the selected product, a measure of quality for an available item of that selected product, a measure of reputation for a selected seller or manufacturer of that selected product, a shipping cost or type, a tax imposed on purchase of the selected product (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using **complex search criteria** , which examiner construes as **multi-variable information**; and examiner also construes complex as at least two of the above criteria; e.g. reputation for service and (see page 5 [0077] lines 3-4 reputation for service or unethical business practices; see page 2 [0017] line 9 better shipping terms, hence at least two criteria, including measure of quality and shipping cost or type, are explicitly stated, all other criteria are clearly implied by the **complex search criteria** method));

presenting a price in association with that selected product (see page 2 [0027] lines 6-7 whereby the nodes (defined as computer/server or gateway representing a merchant) that wish to respond return the request (by buyer using complex search criteria) with their offer, construed by examiner as presenting that effective price, and a URL to the product site). However, Kraft does not specifically disclose *computing and presenting* an "effective" price in response to that multi-variable information.

Podgurney et al. discloses a system and a method using a search engine whereby pricing is *computed* by independent search of a database for pricing and a separate database for promotional events, construed by examiner as discounts (see [0166] lines 1-2 whereby the pricing engine computes a price for a service (i.e. transportation of goods in this embodiment) and independently searches for promotional events for which the parameters are a match to the discount eligibility criteria; see [0218] lines 3-5 where the computations of the price are effected at the merchant computing system and also whereby embodiments of the invention compute price at the customer computing unit).

Both Kraft and Podgurny et al. disclose a method of searching and computing discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the Kraft price search engine to include searching for applicable discounts, computing prices based on these discounts (computing an “effective” price), as taught by Podgurny, in order for the buyer to take advantage of these types of discounts.

However, the combination of Kraft and Podgurny et al. does not explicitly disclose searching for “*stated*” *prices*.

O’Ryan discloses an electronic commerce system whereby buyers are lead through a logical database of informational pages to the specific product or service for which they are looking (see abstract lines 10-12) and to provide supplies and services at stated prices (see [005] lines 6-7).

Both the combination of Kraft and Podgurny et al. and O'Ryan disclose a method and system of electronic commerce for connecting buyers and sellers of goods and services. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of Kraft and Podgurny et al. method to include searching for *stated prices* as taught by O'Ryan in order to meet the needs of the buyer in determining the 'best price'.

**As per claim 2,** Kraft discloses a system and method of real-time price comparisons searching for multi-variable information relating to prices by sellers of a selected product including the steps of

searching for stated prices provided by sellers of a selected product (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using **complex search criteria**; also see [0027], lines 3-7 whereby system searches for the lowest available price and receiving offers from suppliers)

presenting that a price in association with that selected product (see page 2 [0027] lines 6-7 whereby the nodes (representations of sellers) return the request (for selected product) with their offer, construed by examiner as effective price; ).

However, Kraft does not expressly disclose searching for discounts available from those sellers, which discounts are applicable to purchases of that selected product and does not expressly disclose applying those discounts to

those stated prices, whereby an “effective” price can be computed & “stated” prices.

Podgurny et al. discloses a system and a method using a search engine whereby discounts are available from the sellers and whereby these discounts are applied to the prices and an “effective” price is derived (see [0166] lines 1-2 whereby the pricing engine computes a price for a service (i.e. transportation of goods in this embodiment) and independently searches for promotional events for which the parameters are a match to the discount eligibility criteria; see [0218] lines 3-5 where the computations of the price are effected at the merchant computing system and also whereby embodiments of the invention compute price at the customer computing unit).

Both Kraft and Podgurny et al. disclose a method of searching and computing discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the Kraft price search engine to include searching for applicable discounts, computing prices based on those discounts (computing an “effective price”), as taught by Podgurny, in order for the buyer to have more relevant information relating to purchase decisions.

However, the combination of Kraft and Podgurny et al. does not explicitly disclose searching for *stated prices*.

O’Ryan discloses an electronic commerce system whereby buyers are lead through a logical database of informational pages to the specific product or

service for which they are looking (see abstract lines 10-12) and to provide supplies and services at stated prices (see [005] lines 6-7).

Both the combination of Kraft and Podgurny et al. and O’Ryan disclose a method and system of electronic commerce for connecting buyers and sellers of goods and services. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of Kraft and Podgurny et al. method to include searching for *stated prices* as taught by O’Ryan in order to meet the needs of the buyer in determining the ‘best price’.

**As per claim 4,** Kraft discloses the method including steps of filtering information regarding sellers of offering the selected product in response to at least one restriction selected by a potential buyer (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using **complex search criteria**, which examiner construes as filtering information regarding sellers of offering the selected product in response to at least one restriction/criteria by a potential buyer).

**As per claim 5,** Kraft discloses the method including the steps of obtaining at least some of that multi-variable information from a source other than a potential seller of that selected product (see page 5 [0077] lines 1-4 whereby the user at node B (seller B) may investigate the credibility of the merchant at node C (seller C) and find that the merchant at node C has a reputation for poor service or unethical business practices).

**As per claim 6**, Kraft discloses the method including steps of sorting information regarding sellers of offering the selected product in response to price (see FIG 3B whereby 350 returns query results to query engine 355 which sorts sellers offers against buyer criteria, 360).

**As per claim 7**, Kraft disclose wherein a search restriction is selected by a potential buyer, that search restriction including at least one of: a maximum effective price, a minimum measure of quality, a minimum measure of reputation, a minimum shipping type, a maximum amount of product ordered (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using **complex search criteria**, which examiner construes as search restrictions; and examiner also construes complex as at least one of the above criteria; e.g. reputation for service (see page 5 [0077] lines 3-4 reputation for service or unethical business practices; see page 2 [0022 line 2 shipping, etc. as criteria; hence at least two criteria are explicitly stated, all other criteria are clearly implied by the **complex search criteria** method));

**As per claim 9**, Kraft discloses the method wherein the steps of searching for multi-variable information include steps of searching for a first element of that multi-variable information (see page 2 [0015] whereby the adaptive (search) component can be changed either in part or in whole as the message (request) propagates through the network; examiner construes search criteria can be propagated in part or

in whole to sellers/nodes in the network thereby searching for a first element of multi-variable elements is possible);

searching, independently of those steps of searching for a first element, for a second element of that multi-variable information (same rationale as provided for searching a first element applies to searching independently for a second element; also see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search **requests** using **complex search criteria**, which examiner construes as user can enter specific search **requests** with different complex search criteria for the same product or service).

**As per claim 11**, Kraft discloses a method wherein those discounts include at least one of: a reduction in shipping cost, an upgrade in shipping type without associated increase in price, and wherein those discounts are either unconditional or conditional on an amount of product ordered (see page 2 [0017] lines 8-9 whereby subsequent to the peer-to-peer network offers, the merchant responds to the buyer with a lower price or better shipping terms, examiner construes better shipping terms as an upgrade in shipping type without associated increase in price).

**As per claim 13**, Kraft discloses a method wherein those steps of searching also include information relating to products not exactly equal to the selected product (see page 2 [0017] lines 1-6 whereby if one or more search criteria are found by the node, the node updates the message (search criteria),

resulting in a modified message forwarded to the next node or nodes in the network; examiner construes one or more criteria as searching for products meeting less than the full criteria as searching for information relating to products not exactly equal to the selected product).

**5. Claim 3 is rejected under 35 U.S.C. 103(a), as applied to claims 1 and 2, as being anticipated by Kraft (20040098377) in view of Podgurny et al. (2004/0176997) and further in view of O’Ryan (20020111853) as modified above, and further in view of HERZ et al. (20010014868).**

As per claim 3, the pricing search engine of the combination of Kraft and Podgurny et al., and O’Ryan fails to show *aggregating and presenting* to buyer the aggregated information regarding sellers offering the selected product.

HERZ et al. discloses a system and a method using a search engine whereby offers with similar profiles are grouped together, examiner construes grouping as aggregating (see page 2, [0006], lines 1-2).

Both the combination of Kraft and Podgurny et al., and O’Ryan, and HERZ disclose a method of searching and offering discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of the Kraft and Podgurny et al., and O’Ryan price search engine to include grouping and presenting offers with similar profiles, as taught by HERZ, in order for the buyer to have more relevant information relating to purchase decisions.

**6. Claim 8 is rejected under 35 U.S.C. 103(a) as being**

**anticipated by Kraft (20040098377) in view of Podgurny et al. (2004/0176997) and further in view of O’Ryan (20020111853) as modified above, and further in view of Burnett (20020087408).**

**As per claim 8,** the pricing search engine of the combination of Kraft and Podgurny et al., and O’Ryan fails to disclose searching *offline*.

Burnett discloses a method using a search engine whereby a consumer can obtain relevant information ‘offline’ (see [0011], lines 1-2).

Both the combination of Kraft and Podgurny et al., and O’Ryan, and Burnett disclose a method of searching multi-variable information via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of the Kraft and Podgurny et al., and O’Ryan price search engine to include the methods of ‘offline’ searching, as taught by Burnett, in order for the buyer to have more relevant information relating to purchase decisions.

7. **Claim 10 is rejected under 35 U.S.C. 103(a), as applied to claims 1 and 2, as being unpatentable over Kraft (20040098377) and in view of Podgurny et al. (20040176997) and further in view of O’Ryan (20020111853) as modified above, and further in view of LOHSE (20030069785).**

**As per claim 10,** the pricing search engine of the combination of Kraft and Podgurny et al., and O’Ryan does not expressly disclose a method wherein those discounts include at least *one of*: a fixed reduction in price, a percentage reduction in price, a *reduction in price contingent on an amount of product*

*ordered.*

LOHSE discloses a method for substantially instant electronic generation of volume discount coupons based on projected total dollar amounts consumers spend (see abstract lines 1-3 whereby examiner construes volume discount coupons as reduction in price contingent on an amount of product ordered).

Both the combination of Kraft and Podgurny et al. and O’Ryan, and LOHSE disclose a method for electronic commerce between buyers and sellers providing the lowest effective pricing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the search method of the combination of Kraft and Podgurny et al. and O’Ryan to include the volume discounts as taught by LOHSE in order to provide buyers with the lowest effective price.

8. **Claim 12 is rejected under 35 U.S.C. 103(a), as applied to claims 1 and 2, as being unpatentable over Kraft (20040098377) and in view of Podgurny et al. (20040176997) and further in view of O’Ryan (20020111853) as modified above and further in view of Schierholt (20050149377).**

**As per claim 12,** the pricing search engine of the combination of Kraft and Podgurny et al. and O’Ryan, as modified above, does not expressly disclose a method wherein those steps of searching also include information relating to packages of products including the selected product; and the computed effective price is responsive to a minimum effective price for those packages of products.

Schierholt discloses the method whereby information relating to packages of products including the selected product and the computed effective price is responsive to a minimum effective price for those packages of products (see Page 2 [0015] whereby from an original customer product order, identifying at least one potential bundled product package containing more than the requested product order; also see [0016] whereby the special price may be a discount price that is determined according to a pricing and discount strategy; examiner construes special price as the computed effective price in response to buyer price request).

Both the combination of Kraft, Podgurny et al., O’Ryan and Schierholt disclose a method for electronic commerce between buyers and sellers providing the lowest effective pricing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the engine search method of the combination of Kraft, Podgurny et al. and O’Ryan, as modified above, to include the bundled product package as taught by LOHSE in order to provide buyers with the lowest effective price.

### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure.

Terry et al. (20020133400) discloses cross-promotions for consumers for products via on-line e-commerce retailers.

IBM Technical Disclosure Bulletin, September 2001, UK Issue # 449,  
page 1534 discloses a method for Location-Based Comparison Shopping.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael H. Goldman whose telephone number is 571-274-5101. The examiner can normally be reached on Monday thru Thursday 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmine can be reached on 571-270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/  
Primary Examiner, Art Unit 3627

mhg